Remarks

In the present response, no claims are amended. Claims 1-32 are presented for examination.

I. Claims Rejection (Claims 1-7, 11-13, 16, 17, 19-21, 24-30, and 32) – 35 USC § 103

Claims 1-7, 11-13, 16, 17, 19-21, 24-30, and 32 are rejected under 35 USC § 103(a) as being unpatentable over "Surfing to Spark Market for Surplus Supplies," Susan E. Fisher (hereafter "Surplus") in view of Woolston (USPN 6,266,651).

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art cited must teach or suggest all the claim limitations. *See* M.P.E.P. § 2143. Applicants assert that the rejection does not satisfy these criteria.

Independent Claims 1 and 25

Applicants respectfully submit that the cited art does not teach or suggest each and every limitation of claims 1 and 25. These claims recite "offering **a right to market** used goods..., wherein **the right to market** the used goods is simultaneously provided to a plurality of different virtual sellers over the internet exchange portal." These references, alone or in combination, fail to teach or suggest at least the noted recitations in claims 1 and 25.

The Office Action **admits** that Surplus does not teach offering a right to market used goods, wherein the right to market the used goods is simultaneously provided to a plurality of different virtual sellers over the internet exchange portal. (See Final OA, page 2). Applicants agree with this admission. The Office Action, however, states that this recitation is shown in Woolston (Abstract and Col. 2, lines 41-47). Applicants respectfully disagree.

In the Abstract, Woolston teaches a two-tier electronic market system. In this system, a retailer (first tier) provides the item(s) to a first participant (retail consumer). The retailer (first tier) also provides the item(s) to a second participant (wholesale dealer) in a second tier. The item or items are offered at different prices to the first and second participants. The specification (under "The Auction") explains how the items are **sold**:

> The consignment node then checks whether the highest bid received is greater than the reserve price, if appropriate. The consignment node may then post **sold!** and the **sell price** to all participant terminals and proceed to post the next item for auction. (Col. 6, lines 46-50: Bold added).

Woolston thus teaches that a retailer can offer to sell an item or items to a plurality of participants (example, both consumers and wholesale dealers). By contrast, claims 1 and 25 recite offering **a right to market** used goods simultaneously to a plurality of different virtual sellers. Claims 1 and 25 then recite selecting at least one of the virtual sellers and then **selling the right to market** the used goods to the at least one virtual seller. In Woolston, once a participant is selected, the item or items are sold to the participant. In other words, if the retailer selects a consumer or a wholesale dealer, the item or items are then sold to the selected consumer or wholesale dealer. Woolston does not teach or suggest that the retailer sells **the right to market** item or items to the consumer or wholesale dealer. For at least this reason, Applicants respectfully request allowance of claims 1 and 25.

Claims 2-16 depend from independent claim 1 and, hence, inherit all limitations of the base claim. Claims 26-32 depend from independent claim 25 and, hence, inherit all limitations of the base claim. Accordingly, a prima facie case of obviousness has not been established for claims 2-16 and 26-32.

Independent Claim 17

Applicants respectfully submit that the cited art does not teach or suggest each and every limitation of claim 17. Claim 17 recites "selling a right to market the used goods to a virtual seller, **wherein the virtual seller is a manufacturer of new goods and the actual seller is a strategic account customer of the manufacturer**."

Applicants respectfully request the Examiner to cite a specific location in Surplus or Woolston that teaches or suggests this limitation. The Office Action simply cites Surplus pages 1 and 2 without further comment.

Applicants admit that Surplus states:

> Hewlett-Packard is selling Unix workstations, servers, and storage gear through ZoneTrader.com. The hardware includes goods that the computer manufacturer leased or distributed as demonstration models. (Page 2, last two sentences, continuing to page 3).

By contrast, claim 17 recites that the virtual seller is a manufacturer of new goods and the actual seller is a strategic account customer of the manufacturer. In Surplus, ZoneTrader is not a manufacturer of new goods with Hewlett-Packard being the strategic account customer of ZoneTrader. For at least this reason, Applicants respectfully request allowance of claim 17.

Claims 18-24 depend from independent claim 17 and, hence, inherit all limitations of the base claim. Accordingly, a prima facie case of obviousness has not been established for claims 18-24.

II. Claims Rejection (Claims 8-10) – 35 USC § 103

Claims 8-10 are rejected under 35 USC § 103(a) as being unpatentable over Surplus and Woolston in view of Hubbard (US 2001/0039497 A1, hereafter Hubbard).

Dependent claims 8-10 indirectly depend from independent claim 1. As discussed above, claim 1 is patentable over Surplus and Woolston. Hubbard fails to cure the deficiencies of Surplus and Woolston in view of the limitations of independent claim 1. As such, dependent claims 8-10 are also allowable.

III. Claims Rejection (Claims 14, 18, 22, and 30) – 35 USC § 103

Claims 14, 18, 22, and 30 are rejected under 35 USC § 103(a) as being unpatentable over Surplus and Woolston in view of Shkedy (USPN 6,260,024, hereafter Shkedy).

Dependent claims 14, 18, 22, and 30 directly or indirectly depend from independent claims 1, 17, and 25, respectively. As discussed above, these independent claims are patentable over Surplus and Woolston. Shkedy fails to cure the deficiencies of Surplus and Woolston in view of the limitations of independent claims 1, 17, and 25. As such, dependent claims 14, 18, 22, and 30 are also allowable.

IV. Claims Rejection (Claims 15, 23, and 31) – 35 USC § 103

Claims 15, 23, and 31 are rejected under 35 USC § 103(a) as being unpatentable over Surplus and Woolston in view of Pallakoff (USPN 6,269,343, hereafter Pallakoff).

Dependent claims 15, 23, and 31 directly or indirectly depend from independent claims 1, 17, and 25, respectively. As discussed above, these independent claims are patentable over Surplus and Woolston. Pallakoff fails to cure the deficiencies of Surplus and Woolston in view of the limitations of independent claims 1, 17, and 25. As such, dependent claims 15, 23, and 31 are also allowable.

CONCLUSION

In view of the above, Applicants believe claims 1-32 are in condition for allowance. Allowance of these claims is respectfully requested.

Any inquiry regarding this Amendment and Response should be directed to Philip S. Lyren at Telephone No. (281) 514-8236, Facsimile No. (281) 514-8332. In addition, all correspondence should continue to be directed to the following address:

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CERTIFICATE UNDER 37 C.F.R. 1.8: The undersigned hereby certifies that this paper or papers, as described herein, are being deposited in the United States Postal Service, as first class mail, in an envelope address to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 19th day of August, 2004.

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